



Kevin Corbett | Chief Executive Officer

J. Kevin Stitt | Governor

March 15, 2023

Amanda Hill

Health Insurance Specialist

Division of Long-Term Services and Supports

Disabled and Elderly Health Programs Group

Center for Medicaid and CHIP Services

Centers for Medicare & Medicaid Services

Dear Ms. Hill,

On March 17, 2014, the Centers for Medicare and Medicaid Services (CMS) issued a final rule for Home and Community-Based Services (HCBS) that requires states to review and evaluate current HCBS settings, including residential and nonresidential settings. In the May 2022 presentation HCBS Settings Rule Implementation – Moving Forward Toward 2023 and Beyond, the Centers for Medicaid and Medicare highlighted the importance of ensuring full implementation of the Home and Community-Based Services (HCBS) Settings Final Rule while recognizing the impact of the COVID-19 Public Health Emergency (PHE) on providers, the direct support professional workforce, and the State. CMS will allow states to submit a Corrective Action Plan (CAP) to fully comply with the following HCBS Settings Final Rule requirements that have been impacted by the PHE:

- Access to the broader community;
- Opportunities for employment;
- Option for a private unit and/or choice of a roommate; and
- Choice of non-disability specific settings



ADDRESS

4345 N. Lincoln Blvd.
Oklahoma City, OK 73105



WEBSITES

oklahoma.gov/ohca
mysoonerCare.org



PHONE

Admin: 405-522-7300
Helpline: 800-987-7767



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Oklahoma received final approval of the Statewide Transition Plan (STP) on August 10, 2017.

Oklahoma's STP reflects that the State has implemented significant revisions to policies and procedures to fully support the implementation of the HCBS Settings Final Rule, including initial assessments; continuous, ongoing monitoring; technical assistance; training and consultations.

Oklahoma confirms it has assessed all settings for compliance with these mandatory HCBS Settings Final Rule requirements:

- Privacy, dignity, respect and freedom from coercion and restraint;
- Control of personal resources;

In addition, provider-owned and provider-controlled settings are also in compliance with the following requirements:

- A lease or other legally enforceable agreement providing similar protections;
- Privacy in their unit, including lockable doors, and freedom to furnish or decorate the unit;
- Access to food at any time;
- Access to visitors at any time;
- Physical accessibility;
- Person-centered service plan documentation of modifications to relevant regulatory criteria

Corrective Action Plan (CAP)

Oklahoma is requesting a CAP for the applicable settings operating under the following federal Medicaid HCBS waiver authorities:

- Section 1915(c) Home and Community-Based Waiver 0256 ADvantage



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During the past three (3) years of the Public Health Emergency (PHE), the State has been working to ensure HCBS beneficiaries in all settings continue to receive services without disruption; however, due to the COVID-19 health crisis and subsequent PHE, face-to-face and onsite visits were unable to be conducted. The State did complete visits with HCBS Providers and beneficiaries through remote options throughout the PHE to ensure Providers were in full compliance with the HCBS settings.

Starting July 1, 2022, the State implemented face-to-face, onsite assessments. At this time, the State is requesting an extension of the timeline to complete all remaining onsite assessments, to ensure continued compliance or to begin remediation to bring providers into compliance if needed.

Assisted Living

- Completion of Annual Audit via onsite visits completed June 2023;
- Remediation of non-compliance completed November 2023;
- Notification of Decertification sent to Assisted Living (AL) completed December 2023;
- Notification of Decertified Assisted Living (AL) sent to members completed December 2023;
- Relocation of Member completed December 2023;
- Education with providers is an ongoing effort;

Adult Day Health

- Completion of Annual Audit via onsite visits completed December 2023;
- Remediation of non-compliance to be completed May 2024;
- Notification of Decertification sent to Adult Day Health (ADH) completed June 2024;
- Notification to Decertified Adult Day Health (ADH) sent to members completed June 2024;
- Relocation of members completed June 2024;
- Education with providers is an ongoing effort

Corrective Action Plan (CAP)

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- Section 1915(c) Home and Community-Based Waiver 0351 In Home Supports Waiver for Children
- Section 1915(c) Home and Community-Based Waiver 0343 In Home Supports Waiver for Adults
- Section 1915(c) Home and Community-Based Waiver 0179 Community Waiver
- Section 1915(c) Home and Community-Based Waiver 0399 Homeward Bound Waiver

The PHE has significantly impacted Oklahoma’s ability to completely implement the HCBS Settings Final Rule, as it has exacerbated the direct support professional workforce crisis. The PHE has made it more difficult for provider agencies to hire and retain staff, impacting their ability to ensure waiver recipients are fully integrated into the community.

It is difficult to project when the direct support professional crisis will recover. However, Oklahoma anticipates that the additional time provided by the CAP will give our provider network the opportunity to continue to develop more effective and creative strategies, through enhanced training, dialogue, and technical assistance, to better prepare the existing workforce as well as any new staff to fully implement the HCBS Settings Final Rule requirements.

Oklahoma has identified the following strategies to overcome the barriers presented by the PHE to achieve full compliance with community integration; competitive integrated employment; options for private units and/or choice of a roommate; and choice of non-disability specific settings:

- Amended the Community Waiver to include self-direction effective September 1, 2020;
- Amended the In Home Supports Waiver for Children, In Home Supports Waiver for Adults and the Community Waivers to allow family members to serve as self-directed workforce (not legally responsible family members or persons) effective July 1, 2022;



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- Amended the In Home Supports Waiver for Adults, Community Waiver and Homeward Bound Waivers to include the Remote Supports service for adults effective July 1, 2021;
- Rate increases effective October 1, 2022 to help providers attract, recruit, employ and retain staff;
- Rate study completed January 31, 2023 and submitted to the legislature;
- Service modernization project in progress to develop more efficient, modern service options that utilize less staffing and/or promote more independence and autonomy for recipients;
- Training with providers is an ongoing effort;
- Developing new training for case managers is an ongoing effort;
- Developing new training for provider staff is an ongoing effort;
- When an issue related to the HCBS Settings Final Rule is discovered in an audit, the provider is provided in-depth information related to the requirement, remediation alternatives, technical assistance if requested and follow-up until the issue is resolved;
- Annual review of provider agency policies, procedures and training requirements related to settings and upon request

Oklahoma is requesting a corrective action plan (CAP) for the HCBS settings regulation compliance and is requesting that the CAP be approved through 12-31-2024.

The State is requesting your review and consideration for approval.

If you have any additional questions, please contact Princiss Rockmore (LTSS Supervisor).

Princiss.rockmore@okhca.org or 405-522-7754.

Sincerely,

Traylor Rains

State Medicaid Director



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